

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2655 – SB 2606

March 16, 2012

SUMMARY OF AMENDMENT (013337): Creates a new Class A felony theft offense when the value of the property or services is \$250,000 or more. Authorizes the State to charge multiple criminal acts committed against one or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent, or enterprise. Authorizes the State to establish value under this section by aggregating the monetary value of property from multiple criminal acts which are charged in a single count of theft of property. Requires the venue for prosecution to be in the county where one or more elements of the offense occurred, or in the county where an action of solicitation, inducement, offer, acceptance, delivery, storage, or financial transaction occurred involving the property, service, or article of the victim.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$110,600/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- Under current law, theft of property or services with a value of \$60,000 or more is punishable as a Class B felony. The proposed legislation states that if stolen property is valued at least \$60,000 but less than \$250,000 such theft will continue to be punished as a Class B felony. There will not be a fiscal impact to the Department of Correction (DOC) for these Class B felony offenders.
- According to DOC, there has been an average of 24 admissions for the Class B felony offense of theft of property valued at \$60,000 or more. Estimate assumes that one offender every other year will be charged with theft of property or services valued at \$250,000 or more; will be convicted of a Class A felony rather than a Class B felony; and will serve additional time as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will

occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every other year.

- Due to the small number of offenders no recidivism discount has been applied for these offenses.
- According to DOC, the average operating cost per offender per year for calendar year 2012 is \$61.36. The average post-conviction time served for a Class B felony is 5.43 years (1,983.31 days) and 15.30 years (5,588.33 days) for a Class A felony. This bill will result in an offender convicted of theft of property or services with a value of \$250,000 or more serving an additional 9.87 years (15.30 years – 5.43 years).
- The additional cost of increasing the average sentence length by 9.87 years (3,605.02 days) is \$221,204.03 (\$61.36 x 3,605.02 days). The annualized cost per conviction is \$110,602.01 (0.50 annual number of convictions x \$221,204.03).
- According to the District Attorneys General Conference, the proposed bill will not impact its caseloads since the Class A punishment is linked to the value of the property stolen and classification level rather than a new offense.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc